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**TO:** Interested Parties

**FROM:** Anthony Marple, Director, Office of MaineCare Services

**SUBJECT:** Proposed Rule: MaineCare Benefits Manual, Chapter II, Section 95 Podiatry Services

**DATE:** April 29, 2008

This letter gives notice of a proposed rule: The Department of Health and Human Services is proposing changes to MaineCare Benefits Manual, Chapter II, Section 95, Podiatric Services. The proposed rule requires that all podiatric services be prior authorized by the Department or its Authorized Agent. This rulemaking additionally limits coverage of podiatric services to only those members who meet specified medical criteria. The proposed rule eliminates coverage of routine podiatric care and eliminates coverage of bunion surgery. The Department proposes several other structural, administrative and grammatical changes within this rulemaking to make the rule consistent with language in other areas of the MaineCare Benefits Manual (MBM). These changes are required to meet the directive of the Maine State Legislature to cut \$232,500 from the general fund per state fiscal year from podiatry services.

Rules and related rulemaking documents may be reviewed at and printed from the Office of MaineCare Services website at or, [http://www.maine.gov/dhhs/bms/rules/provider\\_rules\\_policies.htm](http://www.maine.gov/dhhs/bms/rules/provider_rules_policies.htm) or for a fee, interested parties may request a paper copy of rules by calling 207-287-9368. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 1-800-423-4331.

A concise summary of the proposed rule is provided in the Notice of Agency Rule-making Proposal. This notice also provides information regarding the rule-making process. Please address all comments to the agency contact person identified in the Notice of Agency Rule-making Proposal.

## Notice of Agency Rule-making Proposal

**AGENCY:** Department of Health and Human Services, Office of MaineCare Services

**RULE TITLE OR SUBJECT:** MaineCare Benefits Manual, Chapter II, Section 95, Podiatric Services

**PROPOSED RULE NUMBER:**

**CONCISE SUMMARY:** The Department of Health and Human Services is proposing changes to MaineCare Benefits Manual, Chapter II, Section 95, Podiatric Services. The proposed rule requires that all podiatric services be prior authorized by the Department or its Authorized Agent. This rulemaking additionally limits coverage of podiatric services to only those members who meet specified medical criteria. The proposed rule eliminates coverage of routine podiatric care and eliminates coverage of bunion surgery. The Department proposes several other structural, administrative and grammatical changes within this rulemaking to make the rule consistent with language in other areas of the MaineCare Benefits Manual (MBM). These changes are required to meet the directive of the Maine State Legislature to cut \$232,500 from the general fund per state fiscal year from podiatry services. This proposed rule does not have any adverse impact on small business other than the reductions in covered services as described above.

**SEE** [http://www.maine.gov/bms/rules/provider\\_rules\\_policies.htm](http://www.maine.gov/bms/rules/provider_rules_policies.htm) for rules and related rulemaking documents.

**THIS RULE WILL** ☐ **WILL NOT** ☒ **HAVE A FISCAL IMPACT ON MUNICIPALITIES.**

**STATUTORY AUTHORITY:** 22 M.R.S.A., § 42, § 3173

**PUBLIC HEARING:**

Date: May 29, 2008 1:00 pm

Location: Conference Room

Department of Health and Human Services

Office of MaineCare Services

442 Civic Center Drive

Augusta, ME

Any interested party requiring special arrangements to attend the hearing must contact the agency person listed below before May 25, 2008.

**DEADLINE FOR COMMENTS:** Comments must be received by midnight June 9, 2008

**AGENCY CONTACT PERSON:** Patricia Dushuttle, Manager, Division of Policy and Performance

**AGENCY NAME:** Office of MaineCare Services

**ADDRESS:** 442 Civic Center Drive  
11 State House Station  
Augusta, Maine 04333-0011

**TELEPHONE:** 207-287-9362 **FAX:** (207) 287-9369 **TTY:** 1-800-423-4331 or 207-287-1828 (Deaf or Hard of Hearing)

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SECTION 95	<b>PODIATRIC SERVICES</b>	Established: 7/1/79 Last Updated: 7/1/06
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**95.01 DEFINITIONS**

**95.01-1 Podiatric Care**

Podiatric care is a service performed by a licensed podiatrist that is reasonable and medically necessary for the diagnosis or treatment of diseases or pathology of the foot and ankle. Not all podiatric care is covered by MaineCare.

**95.01-2 Podiatrist**

A podiatrist is a person who has special training and expertise in the diagnosis and treatment of problems associated with the human foot and ankle, and the structures that govern its function. A podiatrist functions within the scope of the current license granted by the State or Province in which the services are performed.

**95.01-3 Routine Podiatric Care**

MaineCare considers routine podiatric care to include such items as nail debridement, removing corns and calluses, trimming, cutting and clipping of the toenails. Routine podiatric care is not covered by MaineCare.

**95.01-4 Covered Services**

Covered services are those medically necessary services described in Section 95.04, and those services that are reimbursable by MaineCare.

**95.02 ELIGIBILITY FOR CARE**

Individuals must meet the financial eligibility criteria as set forth in the MaineCare Eligibility Manual. Some members may have restrictions on the type and amount of services they are eligible to receive. It is the responsibility of the provider to verify a member's eligibility for MaineCare prior to furnishing services as indicated in Chapter I of the MaineCare Benefits Manual.

Medical Eligibility Requirements

Podiatric care will only be covered for a member who meets all of the following requirements:

1. has severe circulatory, metabolic or systemic disease (such as, but not limited to, diabetes, other neuropathies, arterial and venous peripheral vascular disease, and rheumatoid arthritis); and
2. requires covered services in order to avert the loss of a limb or limb function; and
3. for whom self-care or foot care by a nonprofessional person would be hazardous and pose a threat to the member's condition.

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**95.03 DURATION OF CARE AND LIMITATIONS**

Each MaineCare member is eligible for those medically necessary covered services described in this Section. The Department reserves the right to request additional information to evaluate medical necessity.

All services under this section require prior authorization by the Department or its Authorized Agent. Coverage for routine podiatric care shall not exceed two (2) service treatments every three (3) months or eight (8) treatments per calendar year.

Coverage for mycotic (fungal) nail treatments shall not exceed one (1) treatment (for up to ten (10) nails) every sixty (60) days. Any treatments exceeding this limit must be prior authorized by the Department.

Requests for prior authorization must be sent to:

MaineCare Prior Authorization Unit  
Division of Health Care Management  
Office of MaineCare Services  
11 State House Station  
Augusta, ME 04333-0011

Refer to the MaineCare Benefits Manual, Chapter I, General Administrative Policies and Procedures, for additional information regarding prior authorization requirements.

**95.04 COVERED SERVICES**

Covered services are those services provided by podiatrists within the scope of their license and services for which the Department may make payment. Covered services include those podiatric services provided directly by a podiatrist, laboratory and x-ray services furnished by the podiatrist's office and services that are specifically included in the Department's MaineCare Benefits Manual, Section 90, Physician Services. All services require prior authorization by the Department or its Authorized Agent. Services shall be covered only for members who meet the medical eligibility requirements in Section 95.02. MaineCare does not cover routine podiatric care.

Covered services are limited to the following:

**95.04-1 Podiatric Care**

**A. Diagnostic and Treatment Services**

The diagnosis and treatment of problems of the foot, in a setting furnished with equipment appropriate to the practice of the profession.

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**95.04 COVERED SERVICES (cont.)**

**B. ~~Routine~~ Podiatric Care**

~~Routine~~ Podiatric care will only be covered services for the treatment of: foot ulcers and skin conditions, corns and calluses, nail cutting and debridement to drain infections, treatment of hammer toe, and removal of foreign bodies for members who have severe circulatory, metabolic or systemic disease (e.g., diabetes) and for whom self care or foot care by a nonprofessional person would be hazardous and pose a threat to the member's condition.

Podiatrists may bill for an office visit, or for routine podiatric care, but not both for the same visit.

**C. ~~Bunion Surgery~~**

~~The Department requires all bunion surgery to be prior authorized in accordance with provisions defined in Section 90.05-1, Restricted Services, of the MaineCare Benefits Manual, Chapter II, Section 90, Physician Services.~~

**95.04-2 Laboratory and X-Ray Services**

MaineCare may reimburse a podiatrist in private practice for laboratory and x-ray services provided in his or her office, using the podiatrist's equipment and supplies. To be eligible for reimbursement, a laboratory and/or x-ray unit must comply with the regulations set forth in Section 55, Laboratory Services and/or Section 101, Medical Imaging Services, in Chapter II of the MaineCare Benefits Manual.

**95.04-3 Orthotic Services**

MaineCare reimbursement is available to podiatrists in private practice for those orthotic devices covered by MaineCare that are prescribed or utilized within the scope of practice. Podiatrists providing this equipment must inform members of their freedom of choice to obtain these items from other suppliers. MaineCare will not reimburse podiatrists for both prescribing and supplying durable medical equipment to the same member unless the durable medical equipment is otherwise unobtainable, ~~or the item typically requires no maintenance or replacement during the period used by a member.~~ Off-the-shelf orthotics, as well as certain custom molded foot orthotics, are not covered by MaineCare (see Section 95.05 for clarification). Providers must maintain documentation of acquisition cost, including receipts and a copy of the original invoice, and make such documentation available to the Department upon request. Providers must also maintain documentation supporting the necessity of providing the specialty supplies and/or equipment during the office visit. MaineCare will not reimburse podiatrists for basic on-going medical supplies that are ~~obtained available~~ through providers enrolled as Medical Supplies

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**95.04 COVERED SERVICES (cont.)**

and Durable Medical Equipment providers. Podiatrists must consult the most recent version of the Current Procedural Terminology (CPT) and the HealthCare Common Procedure Coding System (HCPCS) books for appropriate billing codes. Providers may also consult the Office of MaineCare Services' web site for access to the current procedure codes at: <http://www.maine.gov/bms/provider.htm>.

The provider's charges must not exceed acquisition cost. It is also the provider's responsibility to verify that the services and procedure codes are covered by MaineCare. Claims must be submitted according to current Departmental billing instructions. Limits and prior authorization requirements on orthotic services apply as defined in the MaineCare Benefits Manual, Chapter II, Section 60, Medical Supplies and Durable Medical Equipment.

**95.04-4 Care for Institutionalized Members**

Podiatric care as described above, and/or diagnostic and treatment services provided to a resident of a nursing facility may be reimbursed only when the member meets the medical eligibility requirements set forth in Section 95.02, and a covered services (refer to Section 95.04) is~~are~~ ordered in writing by the member's attending physician, physician assistant, or advanced practice nurse as allowed by the licensing authority and scope of practice.

**95.04-5 Interpreter Services**

Interpreter services for members who are deaf/hard-of-hearing, or who need language interpreters are to be provided in accordance with the guidelines specified in Chapter I of the MaineCare Benefits Manual.

**95.04-6 Supplies and Materials**

MaineCare will cover supplies and materials used by a podiatrist for non-routine services needed in performing office procedures that are above and beyond what is usually used in a normal office visit. Examples of supplies and materials are: strapping, padding or compression dressings, plaster, and surgical trays. MaineCare does not cover dressings used following routine podiatric care. MaineCare reimburses acquisition cost only. Claims must be submitted according to current Departmental billing instructions.

**95.05 NON-COVERED SERVICES**

MaineCare does not cover routine podiatric care. For members twenty-one (21) years of age and older, orthopedic shoes and other supportive devices for the feet generally are not covered. However, this exclusion does not apply to such a shoe if

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**95.05 NON-COVERED SERVICES (cont.)**

it is an integral part of a leg brace, and its expense is included as part of the cost of the brace. Also, this exclusion does not apply to therapeutic shoes furnished to diabetics.

~~MaineCare will only cover routine podiatric care for members who have severe circulatory, metabolic or systemic disease (e.g. diabetes), and for whom self care or foot care by a nonprofessional would be hazardous or pose a threat to a member's condition. MaineCare will not cover routine podiatric care that exceeds the limitations set in Section 95.03 without prior authorization.~~

**95.06 POLICIES AND PROCEDURES**

**95.06-1 Member Records**

The Department requires a specific record for each member, that includes, but is not necessarily limited to:

- A. the member's name, address, and birthdate;
- B. the member's history, as appropriate;
- C. findings from the physical examination;
- D. long and short range goals, as appropriate;
- E. any tests ordered/performed and the results;
- F. treatment or follow-up care;
- G. any medications and/or supplies dispensed or prescribed;
- H. recommendations for additional treatments and sources of care;
- I. the dates on which all services were provided; and
- J. written progress notes that identifies the services provided.

Entries are required for each date of service billed and must include the podiatrist's name and signature.

**95.06-2 Program Integrity Unit**

The Program Integrity Unit requirements apply as defined in the MaineCare Benefits Manual, Chapter I, General Administrative Policies and Procedures.



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**95.07 REIMBURSEMENT**

- A. Unless specified in other Chapters of this Manual, the maximum amount of payment for services rendered shall be the lowest of the following:
1. The MaineCare rate of reimbursement as found in the applicable chapters of the MaineCare Benefits Manual or as published by the Department.
  2. The lowest amount allowed by Medicare Part B.
  3. The usual and customary charges.
  4. The amount, if any, by which the MaineCare rate of reimbursement for services billed exceeds the amount of the third party payment as set in Chapter I of the MaineCare Benefits Manual. MaineCare considers a claim paid in full if the insurance amount received exceeds the MaineCare rate of reimbursement.
- B. In accordance with Chapter I, it is the responsibility of the provider to ascertain from each member whether there are any other resources (private or group insurance benefits, worker's compensation, etc.) that are available for payment of the rendered service, and to bill that potential payor prior to billing MaineCare.

**95.08 COPAYMENT**

**95.08-1 Copayment Amount**

- A. A copayment will be charged to each MaineCare member receiving services. The amount of the copayment shall not exceed \$2.00 per day for services provided, according to the following schedule:

MaineCare Payment for Service	Member Copayment
\$10.00 or less	\$ .50
\$10.01 - 25.00	\$1.00
\$25.01 or more	\$2.00

- B. The member shall be responsible for copayments up to \$20.00 per month whether the copayment has been paid or not. After the \$20.00 cap has been reached, the member will not be required to make additional copayments and the provider will receive full MaineCare reimbursement for covered services.

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**95.08 COPAYMENT (cont.)**

- C. No provider may deny services to a member for failure to pay a copayment. Providers must rely upon the member's representation that he or she does not have the money available to pay the copayment. A member's inability to pay a copayment does not relieve him/her of liability for a copayment.
- D. Providers are responsible for documenting the amount of copayments charged to each member regardless of whether the member has made payment.

**95.08-2 Copayment Exemptions**

Copayment exemptions apply as defined in the MaineCare Benefits Manual, Chapter I, General Administrative Policies and Procedures.

**95.08-3 Copayment Disputes**

Procedures regarding copayment disputes apply as defined in the MaineCare Benefits Manual, Chapter I, General Administrative Policies and Procedures.

**95.09 BILLING INSTRUCTIONS**

- A. Billing must be accomplished in accordance with the Department's current billing instructions.
- B. All services provided on the same day shall be submitted on the same claim for MaineCare reimbursement.